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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,283	09/15/2000	Daniel Meilhon	6219-0012	9760

21967 7590 06/25/2003

HUNTON & WILLIAMS  
INTELLECTUAL PROPERTY DEPARTMENT  
1900 K STREET, N.W.  
SUITE 1200  
WASHINGTON, DC 20006-1109

EXAMINER

CHEN, VIVIAN

ART UNIT	PAPER NUMBER
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1773

17

DATE MAILED: 06/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/601,283

Applicant(s)

MEILHON, DANIEL

Examiner

Vivian Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 and 31-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 18, the phrase "being capable of substantially retaining its shape" is vague and indefinite because it is unclear what constitutes being able to "substantially" retain its shape and under what conditions this retention of shape occurs.

***Claim Rejections - 35 USC § 103***

3. Claims 18-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over WINTER (US 4,705,707) in view of BRADT (US 5,888,599).

WINTER '707 discloses a symmetrical five layer film having a CBABC structure and suitable for wrapping and packaging applications, wherein layer "A" is polyethylene and layer "C" is a copolyester, wherein layer "A" is 30-90 wt% of the film, and layer "C" comprises 5-40 wt% of the film, the film having a typical total thickness of 1.9 mil (Figure 2; lines 44-53, col. 4; lines 55-68, col. 6; lines 16-30, col. 9; lines 45-50, col. 10; Example 7) as recited in claims 18-24, 30. The copolyester layers optionally contain slip and antiblocking agents (lines 50-55, col.

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6) as recited in claim 28. However, the reference does not explicitly disclose the recited copolyester.

BRADT discloses that it is well known in the art to use amorphous copolyesters comprising 15-95 mol% ethylene terephthalate and 5-85 mol% of another diacid such as isophthalic acid and/or another diol such as cyclohexane dimethanol as heat seal layers for packaging films (lines 18-63, col. 6) as recited in claims 18, 25-27 in order to form articles with durable heat seals.

4. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use known heat-sealable copolyester resins as disclosed in BRADT in the outer layers of the WINTER '707 film in order to obtain durable, rupture resistant packaging and wrapping materials. One of ordinary skill in the art would have applied conventional metallic or print layers to the film (claim 29) in order to obtain specific decorative effects and/or convey package information.

5. Claims 18-22, 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over WINTER (US 4,716,061) in view of BRADT (US 5,888,599).

WINTER '061 discloses a symmetrical five layer film having a CBABC structure and suitable for wrapping and packaging applications, wherein layer "A" is polypropylene and layer "C" is a copolyester, wherein layer "A" is 30-90 wt% of the film, and layer "C" comprises 5-40 wt% of the film, the film having a typical total thickness of 1.9 mil (Figure 2; lines 5-18, col. 6; lines 45-68, col. 6; lines 9-27, col. 9; Example 6) as recited in claims 18-22, 24, 30. The

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copolyester layers optionally contain slip and antiblocking agents (lines 40-45, col. 6) as recited in claim 28. However, the reference does not explicitly disclose the recited copolyester.

BRADT discloses that it is well known in the art to use amorphous copolyesters comprising 15-95 mol% ethylene terephthalate and 5-85 mol% of another diacid such as isophthalic acid and/or another diol such as cyclohexane dimethanol as heat seal layers for packaging films (lines 18-63, col. 6) as recited in claims 18, 25-27 in order to form articles with durable heat seals.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use known heat-sealable copolyester resins as disclosed in BRADT in the outer layers of the WINTER '061 film in order to obtain durable, rupture resistant packaging and wrapping materials. One of ordinary skill in the art would have applied conventional metallic or print layers to the film (claim 29) in order to obtain specific decorative effects and/or convey package information.

#### ***Response to Arguments***

6. Applicant's arguments filed 3/5/2003 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (703) 305-3551. The examiner can normally be reached on Monday from 8:30 AM to 6 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau, can be reached on (703) 308-2367. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (for non-after finals) and (703) 872-9311 (for after-finals).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

June 13, 2003



Vivian Chen  
Primary Examiner  
Art Unit 1773